IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE THIRTIETH DAY OF NOVEMBER TWO THOUSAND AND FIVE

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PRESENT

THE HON'BLE MR JUSTICE J.CHELAMESWAR

and
THE HON'BLE MR JUSTICE RAMESH RANGANATHAN

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WRIT PETITION NO : 5368 of 2004

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Between:

1 Chief Mechanic Engineer, Sourth Central Railway Secunderabad.
2 The Additional Divisional Railway Manager Guntakal Division, South Central Railway Guntakal, Ananthapur District.
3 The Senior Divisional Mechanical Engineer (Diesel), South Railway, Gooty, Anantapur District.

..... PETITIONERS

AND

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K.Kondal Rao s/o.Posaiah Grade-I, Diesel Shed, South Central Railway Gooty, Ananthapur district.

.....RESPONDENT

This Court made the following:

ORAL ORDER: (*Per* **JC,J**.)

This writ petition is filed with the prayer as follows:

> "Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ or certiorari or any other appropriate writ or order or direction in the nature of the writ under Article 226 of the Constitution of India calling for the records relating to and connected with the order dated 18.11.2003 rendered in O.A.No.498 of 2003 on the file of the Hon'ble Central Administrative Tribunal, Hyderabad Bench, Hyderabad and quash or set aside the same as it is contrary to law."

The sole respondent herein joined the South Central Railway on 22-10-1973 as laboratory Superintendent. On

4-11-1988 he was served with a charge memo under rule 9 of the Railway Servants (D & A) Rules 1968, issued by the third respondent herein. The

substance of the said charge is that the respondent contracted second marriage during the subsistence of his first marriage with one Smt. Vijayakumari. Incidentally, the allegation is that the respondent contracted second marriage with one Bhramaramba, which is a prohibited conduct under rule 21 of the Railway Services (Conduct) Rules, 1966. An enquiry was held. The enquiry officer recorded a finding that the charge was established. The third respondent passed order dated 28-11-1991 imposing penalty of reversion to a lower scale as CMA. The said order was confirmed in the appeal by the second appellant by an order dated 26-6-1997. However, the first appellant on a representation by the respondent herein by his order dated 10-4-2003 modified the punishment to one of reduction to the lowest stag in the time scale of lab superintendent. Aggrieved by the same, the respondent approached the Administrative Tribunal by the above mentioned O.A.

From the record, it appears that the respondent herein was also prosecuted for an offence under Section 494 of IPC based on a report made by the alleged first wife. The Criminal Court acquitted the respondent mainly on the ground that the alleged first wife made a categorical statement in her evidence that the requisite rituals to be performed for a valid Hindu marriage were not gone through and therefore, there is no marriage between the respondent and the said Vijayalakshmi i.e. the alleged first wife in the eye of law. The judgment of the criminal Court attained finality.

The Administrative Tribunal on a consideration of the above material came to the conclusion that the respondent herein could not have been legally found guilty of any misconduct falling within the scope of Rule 21 of the Conduct Rules, 1966. It is not even a case where the alleged first wife was examined during the departmental enquiry.

In the circumstances, we do not see any illegality to interfere with the order of the Administrative Tribunal, which is under challenge. The writ petition is devoid of any merits and accordingly the same is dismissed. No order as to costs.

J. CHELAMESWAR, J.

30-11-2005

RAMESH RANGANATHAN, J.

Kvsn/ES